

REMARKS

Claims 100, 101, 103-115, 117-121, and 123 are currently pending in the application including independent claims 100, 114, and 123. Claims 114, 115, and 117-121 stand Withdrawn. Independent claim 100, for instance, is directed to a five layer stitchless seam. The five layer stitchless seam comprises a first thermoplastic tape portion, a first substrate portion in contact with the first thermoplastic tape portion, a second thermoplastic tape portion in contact with the first substrate portion, a second substrate portion in contact with the second thermoplastic tape portion, and a third thermoplastic tape portion in contact with the second substrate portion. The stitchless seam is a flexible seam. In addition, at least one of the first thermoplastic tape portion, the second thermoplastic tape portion, and the third thermoplastic tape portion is a multi-layer tape portion running the length of the seam that includes a first continuous layer having a first melting point and a second continuous layer having a second melting point.

In the Office Action, claims 100-101, and 103-113 were rejected under 35 U.S.C. §103 as being unpatentable over Gaylord, Jr. (U.S. Patent 3,970,079) in view of Webb (U.S. Patent No. 6,372,632).

Applicants respectfully submit that claims 100-101 and 103-113 patentably define over the cited art for at least the reason that no proper motivation exists for combining the references as suggested in the Office Action.

Gaylord, Jr. discloses an elongate body support binder comprising serially arranged fabric panels and a joint structure for interconnecting the adjacent ends of the

panels (Abstract). Specifically, the panels are joined by a strip of plastic material which serves not only to join the panels, but also to provide sufficient resistance to lateral bending to prevent the rolling of the side edges of the panels during use (col. 1, ll. 40-46). Specifically, the plastic strips provide resistance to lateral bending and prevent the side edges of the binder from rolling during use (col. 4, ll. 18-30). Thus, the joints of the body support binder of Gaylord, Jr., are not flexible seams, but are specifically designed joints that provide resistance to lateral bending and prevent rolling of the side edges of the panels (col. 2, ll. 587-62).

Webb is directed to methods and seams for joining fabric sections and articles of manufacture having fabric sections joined by stitched seams (p. 1, col. 1, ll. 1-4). More specifically, Webb describes a watertight stitched seam in which the stitches are completely enclosed within the seam through the folding of a tape about the seam (p.1, col. 2, ll. 16-27). The tape is described as a pliable tape (p. 2, col. 1, l. 10). Products described by Webb include raincoats and other such articles (p. 1, col. 1, ll. 5-6). Thus, and in contrast to the joints of the body support binders of Gaylord, et al., the tapes utilized by Webb are pliable and the seams incorporating these tapes are flexible seams are found in raincoats and similar articles of manufacture.

In the Office Action, it was suggested to provide Gaylord, et al. with a tape as taught by Webb and thus create a water tight seam as taught by Webb. Applicants note that if a proposal for modifying the prior art in an effort to attain the claimed invention causes the art to become inoperable or destroys its intended function, then the requisite motivation to make the modification would not have existed. (In re Fitch, 972 F2d. 1260, 1265 n. 12, 23 USPQ2d, 1780, 1783 n.12, Fed. Circ. 1992).

Applicants respectfully submit that the proposed modification would destroy the intended function of Gaylord, et al. Gaylord, et al. requires a strip of plastic material at the joints so as to prevent the side edges of the binder from rolling. The pliable tape of Webb and the seams formed therewith include no such stiffening capability. Alteration of the inflexible joints of Gaylord, et al. to form instead a flexible seam as is taught by Webb would destroy the intended function of Gaylord, et al. and as such, no proper motivation exists for the suggested modification.

For at least this reason, Applicants respectfully maintain that claims 100, 101, and 103-113 patentably define over the cited art.

In the Office Action, claims 123 -125 were rejected under 35 U.S.C. §102 as being anticipated by Obayashi, et al.

The presently presented amendments include incorporation of the limitations of dependent claim 124 into the independent claim 123 and cancellation of claims 124 and 125. Accordingly, as the presented amendments cancel claims, do not affect the scope of any other pending claim, and remove issues for appeal, Applicants request entry of the Amendments.

The presently presented amendments are in no way intended to reflect any belief of the Applicants as to any lack of patentability of these claims. The presently presented amendments are made purely for the purpose of furthering prosecution of the application and Applicants maintain that the claims are patentable. Applicants reserve the right to reassert these claims in a continuation application filed under 37 U.S.C. §1.53(b).

Applicants respectfully submit that independent claim 123 patentably defines over the cited reference for at least the reason that the claims include limitations neither disclosed nor suggested by Obayashi, et al.

For instance, Obayashi, et al. does not disclose or suggest a multilayer stitchless seam comprising a first tape portion, a first substrate portion in contact with the first tape portion, a second tape portion in contact with the first substrate portion, a second substrate portion in contact with the second tape portion, a third tape portion in contact with the second substrate portion, and a third substrate portion, as is found in pending claim 123.

Obayashi, et al. is directed to lap welding textiles. Specifically, Obayashi, et al. discloses a method including superposing two end portions of *one or two textile fabrics* while interposing a piece of bonding tape between the two end portions. For instance, and with reference to Figures 3 - 6 and col. 5, ll. 3-31 of Obayashi, et al., the welded seam can include two fabrics **1** and **2** and a tape **11** between the end portion **3** of the fabric **1** and the end portion **4** of the fabric **2**. The non-melted side edge portions of the tape **11** form fin-shaped projections **12** and **13** extending from the weld. The fin-shaped projections **12** and **13** can be deformed and led to outside the welded portion in the directions as indicated by C' and D' on Figure 6.

Applicant respectfully submits that Obayashi, et al. simply does not disclose or suggest a multilayer stitchless seam including three tape portions and three substrates, as is found in independent claim 123.

While the above discussion is primarily directed to independent claims 100 and 123, the above-cited references were also cited to reject the dependent claims.

Applicants respectfully submit, however, that dependent claims 101 and 103-113 patentably define over the cited references and that the patentability of the dependent claims does not hinge on the patentability of the related independent claims. In particular, it is believed that the dependent claims possess features that are independently patentable, regardless of the patentability of independent claims 100 and 123.

It is believed that the present application is in complete condition for allowance and favorable action, therefore, is respectfully requested. Examiner Rhee is invited and encouraged to telephone the undersigned, however, should any issues remain after consideration of this Amendment.

Please charge any additional fees required by this response to Deposit Account No. 04-1403.

Respectfully submitted,
DORITY & MANNING, P.A.



Christina L. Mangelsen, Patent Agent
Registration No. 50,244
P. O. Box 1449
Greenville, SC 29602-1449
Phone: (864) 271-1592
Facsimile: (864) 233-7342

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